

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
1998 Biennial Regulatory Review - Streamlined)	CC Docket No. 98-171
Contributor Reporting Requirements Associated)	
with Administration of Telecommunications))	
Relay Service, North American Numbering Plan,)	
Local Number Portability, and Universal Service)	
Support Mechanisms)	
)	
Telecommunications Services for Individuals with)	CC Docket No. 90-571
Hearing and Speech Disabilities, and the)	
Americans with Disabilities Act of 1990)	
)	
Administration of the North American Numbering)	CC Docket No. 92-237
Plan and North American Numbering Plan Cost)	NSD File No. L-00-72
Recovery Contribution Factor and Fund Size))	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability))	CC Docket No. 95-116

COMMENTS OF ARCH WIRELESS, INC.

To: The Commission

I. Introduction and Summary

Arch Wireless, Inc. (“Arch”) hereby submits its comments in response to the Commission’s

Notice of Proposed Rulemaking regarding universal service assessment and contribution.¹ Arch is a nationwide provider of paging and messaging services. Arch favors an assessment methodology that is equitable, non-discriminatory, and competitively neutral. CMRS industry trends that may suggest increased interstate traffic are not relevant to Arch's paging operations. Thus, the Commission should retain its 12 percent "safe harbor" interstate revenue presumption for paging carriers. In addition, because of the enormous differences in revenue per unit among carriers and types of carriers, the Commission should not adopt an assessment methodology based on a per-line or per-unit amount. Finally, Arch urges the Commission not to impose additional administrative burdens on carriers that do not benefit from the Lifeline program by requiring them to identify Lifeline subscribers and exclude them from the contribution base.

II. Assessment of Universal Service Contributions

A. Assessment on a Revenue Basis: Safe Harbor

In the NPRM, the Commission speculated that, "in light of the increase in the use of wireless services and bundled local and long distance wireless offerings, it is possible that the actual percentage of interstate wireless telecommunications revenues may now significantly exceed the Commission's interim safe harbor percentages."² In light of these "market conditions," the Commission sought comment on whether to continue to allow wireless carriers to use the interim safe harbor percentages

¹ *Federal State Joint Board on Universal Service; 1998 Biennial Regulatory Review; Telecommunications Services for Individuals with Hearing and Speech Disabilities; Administration of the North American Numbering Plan; Number Resource Optimization; Telephone Number Portability*, Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, FCC 01-145 (rel. May 8, 2001) (the "NPRM").

² NPRM at para. 12.

(12 percent for paging carriers such as Arch) for calculating the percent of interstate revenues.³

The Commission should continue to allow paging carriers to utilize a “safe harbor” percentage for determining their proportion of interstate revenue. The Commission adopted the safe harbor because it acknowledged that wireless carriers’ revenues, including paging carriers’ revenues, are difficult to place in jurisdictional categories.⁴ The reasons this was true at that time remain equally true today with respect to the paging industry, and an assessment system based on current or projected revenues would not change this.⁵ Service areas, and areas served by a particular antenna, do not correspond to state boundaries. In some cases, a single switch is used to route traffic originating in more than one state. The mobile nature of the service itself also contributes to the difficulty in jurisdictionally categorizing the traffic. These reasons for adopting the safe harbor applied to the paging industry in 1998,⁶ and they remain true today.

The Commission should retain the safe harbor at 12 percent for paging carriers. The Commission selected 12 percent as the safe harbor percentage for paging carriers because, prior to the adoption of the safe harbor when carriers were required to submit “good-faith estimates” of their interstate revenues, “paging providers, as a group, reported . . . that approximately 12 percent of their

³ NPRM at para. 24.

⁴ *Federal State Joint Board on Universal Service*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21255-56 (1998) (“*Safe Harbor Order*”).

⁵ *Cf.* NPRM at para. 24.

⁶ *Safe Harbor Order*, 13 FCC Rcd at 21255-56.

paging revenues . . . [were] interstate”⁷ Thus, the 12 percent figure represents actual good-faith estimates by the industry of their percent of interstate revenues. This is different from the safe harbor percentages that were adopted for other industry segments, which were based on less reliable data.⁸

Further, there is no reason to believe that paging carriers’ percent of interstate revenues has changed since the safe harbor was adopted. The “market conditions” related to bundling of local and long distance identified in the NPRM in no way affect the paging industry.⁹ Paging carriers do not offer “long distance” services in any meaningful sense of the word, and therefore cannot bundle interstate minutes with local minutes to encourage their customers to increase their interstate usage. Paging traffic is either interstate or intrastate largely as a result of the locations of the parties placing and receiving the page. Thus, any changes in market conditions of this type would not affect paging carriers such as Arch.

If the Commission wishes to “simplify and streamline the contribution process”¹⁰ for paging carriers, the Commission should retain the 12 percent safe harbor. It remains the most efficient method of resolving the difficult jurisdictional allocation problem for paging carriers, without sacrificing any significant accuracy in the allocation process.

⁷ *Safe Harbor Order*, 13 FCC Rcd at 21259-60.

⁸ For example, the 15 percent safe harbor adopted for cellular and broadband PCS carriers was based on percentage of interstate dial-equipment minutes (DEMs) reported by *wireline* carriers. *Safe Harbor Order*, 13 FCC Rcd at 21259.

⁹ Arch has no information about whether the changes in market conditions identified in the NPRM have in fact taken place, or whether or how they might affect other CMRS carriers.

¹⁰ NPRM at para. 4. *See also id.* at para. 16.

B. Assessment on a Flat-Fee Basis

The NPRM seeks comment on “a proposal to assess universal service contributions on a flat-fee basis, such as a per-line or per-account charge.”¹¹ This proposal should be rejected.

Among the guiding principles for the Commission’s universal service system are that it be equitable and competitively neutral.¹² An assessment mechanism based on any flat, per-line or per-account charge would violate both of these principles. Vast disparities exist among the revenues generated per “line” or “account” for different types of carriers or services. Even within the wireless industry, revenues per customer vary widely. For example, the Commission’s 2000 *CMRS Competition Report* shows that, in 1999, mobile telephony providers generated about \$41 per subscriber per month, while paging carriers generated only about \$8 per subscriber per month — less than one fifth as much.¹³

Given these disparities in per-unit revenues, the only equitable way of setting such assessments would depend upon the revenues generated per unit. Different per-unit assessments would have to be established based on the type of carrier and, perhaps, the type of customer.¹⁴ Otherwise, the burden of universal service will be shifted onto carriers with lower revenues, requiring carriers such as paging

¹¹ NPRM at para. 25.

¹² See 47 USC § 254(b)(4), (7); see also *Federal State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8801 (1997).

¹³ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, Fifth Report, 15 FCC Rcd 17660 at 17746, 17773 (2000) (“*Fifth CMRS Competition Report*”).

¹⁴ See NPRM at para. 30.

carriers to bear more than an equitable share of the contribution burden, in contravention of section 254(b)(4). This result also would not be competitively neutral,¹⁵ because it would give carriers and services with higher revenues per subscriber (including those that compete with paging/messaging carriers) an advantage over carriers with lower revenues.¹⁶

The complexity involved in establishing a variety of different per-unit contribution amounts militates strongly against adopting such a system. Moreover, it is difficult to see the utility of moving away from a revenue-based assessment system to a flat-rate assessment system when the flat-rate assessment system will have to be based on revenues in order to equitable, non-discriminatory, and competitively neutral.¹⁷ It would be far simpler to retain the existing revenue-based system.

The proposal to assess universal service contributions based on a flat per-line or per-customer amount would in no way simplify the assessment or recovery of universal service contributions. Accordingly, the proposal should be rejected.

III. Recovery of Universal Service Contributions: Lifeline Exception

The NPRM seeks comment on whether “all carriers” should be prohibited from recovering universal service contributions from low-income consumers receiving Lifeline discounts.¹⁸ As the NPRM itself acknowledges, however, carriers other than the LEC providing the Lifeline service will be

¹⁵ *Federal State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8801 (1997) (adopting “competitive neutrality” as a universal service principle per 47 USC § 254(b)(7)).

¹⁶ For example, the Commission has noted that paging carriers compete for customers with cellular and broadband PCS carriers. *Fifth CMRS Competition Report*, 15 FCC Rcd at 17714, 17716.

¹⁷ See previous paragraph.

¹⁸ NPRM at para. 45.

“unable to identify Lifeline customer revenues, lines, or accounts.”¹⁹ As a result, carriers such as paging carriers, which are not eligible to offer Lifeline service to low-income consumers,²⁰ should not be required to exclude Lifeline customers when recovering universal service contributions. This requirement would substantially complicate the universal service contribution system for carriers and their customers, and should not be adopted.

IV. Conclusion

To ensure a simple, equitable universal service assessment system, the Commission should retain the safe harbor for paging carriers at 12 percent, and not adopt a flat-fee assessment methodology. Similarly, the Commission should not require carriers other than the LEC providing Lifeline service to exclude Lifeline subscribers from their recovery of universal service contributions.

Respectfully submitted,

By: /s/
Dennis M. Doyle
Vice President, Telecommunications
ARCH WIRELESS, INC.
1800 West Park Drive
Suite 250
Westborough, MA 01581-3912
(508) 870-6612

¹⁹ *Id.*

²⁰ In order to offer Lifeline, carriers must provide all of the supported services, including services such as voice-grade service that paging carriers do not provide. 47 CFR § 54.401(a)(3). *See also* 47 CFR § 54.101.